REMARKS

1.   Claims 1-36 are pending and stand rejected. This communication amends claims 1, 7, 13,

19, 25, and 31.

Reconsideration of this application is respectfully requested.

2.   Claims 1, 3, 7, 13, 15, 19, 25, 27 and 31 remain provisionally rejected under the

judicially created doctrine of obviousness-type double patenting as being unpatentable over

claims 1, 5 and 9-12 of copending Application No. 09/793,035 (the copending application).

Provisional obviousness-type double patenting requires the rejection of an application

claim when the claimed subject matter is not patentably distinct from the subject matter claimed

in a commonly owned pending application. In other words, a provisional obviousness-type

double patenting rejection is appropriate only when the invention of the application claim is an

obvious variation of the invention claimed in the commonly owned pending application.

This rejection is respectfully traversed because the subject matter of claims 1, 3, 7, 13,

15, 19, 25, 27 and 31 of the present application is patentably distinct from the subject matter of

claims 1, 5 and 9-12 of the copending application. For example, claim 1 of the present

application now calls for:

> "encoding an uncoded video to generate extended base layer
> reference frames, each of the extended base layer reference frames
> including a base layer reference frame and at least a fractional
> bitplane of an associated enhancement layer reference frame
>
> generating frame residuals from the uncoded video and the
> extended base layer reference frames ."

In contrast, claim 1 of the copending application calls for:

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"generating residual images from the video data and the base layer frames utilizing multiple base layer frames for each of the residual images; and coding the residual images with a fine granular scalability technique to produce enhancement layer frames."

As can be seen, claim 1 of the copending application generates residual images using multiple base layer frames, whereas claim 1 of the present application generates residual images using extended base layer frames which each include at least a fractional bitplane of an associated enhancement layer reference frame. It is noted that none of claims 5 and 9-12 of the copending application call for extended base layer reference frames either.

Thus, it has been shown that the currently claimed invention of the present application is not an obvious variation of the invention claimed in the copending application because none of the claims of the copending application recite the currently claimed invention's "extended base layer frames which each include at least a fractional bitplane of an associated enhancement layer reference frame." Therefore, the subject matter of claims 1, 3, 7, 13, 15, 19, 25, 27 and 31 of the present application is patentably distinct from the subject matter of claims 1, 5 and 9-12 of the copending application.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

3.   Claims 1, 2, 4-14, 16-26 and 28-36 remain rejected under 35 USC 102(e) as being anticipated by U.S. Patent 6,510,177 to De Bonet *et al.* (De Bonet).

The examiner maintains the contention that the high resolution motion vectors, which have been upsampled from motion vectors extracted from the base layer, are the claimed at least a portion of an associated enhancement layer reference frame. As stated in applicant's previous

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reply, the high resolution motion vectors are not a portion of an enhancement layer reference frame. To make this distinction more lucid, applicant has amended the claims to recite: "...each of the extended base layer reference frames including a base layer reference frame and at least a fractional bitplane of an associated enhancement layer reference frame... ."

De Bonet fails to expressly or inherently describe such a reference frame. Thus, De Bonet fails to describe the subject matter of the claims, as currently amended.

Accordingly, withdrawal of this rejection is respectfully requested.

4.   Claims 3, 15 and 27 stand rejected under 35 USC 103(a) as being unpatentable over De Bonet in view of U.S. Patent 6,614,936 to Wu *et al.* (Wu).

Claims 3, 15, and 27 each require an extended base layer reference frame which includes a base layer reference frame and at least a fractional bitplane of an associated enhancement layer reference frame. As discussed above, De Bonet fails to describe such a reference frame. The addition of Wu fails to cure the deficiencies of De Bonet, as Wu also fails to describe such a reference frame. For at least this reason, De Bonet in view of Wu fail to make unpatentable the subject matter of claims 3, 15, and 27.

Accordingly, withdrawal of this rejection is respectfully requested.

5.   Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1-36 are in condition for allowance, early notification of which is earnestly solicited. Should there be any

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questions or matters whose resolution may be advanced by a telephone call, the examiner is

cordially invited to contact applicants' undersigned attorney at his number listed below.

6.   The Commissioner is hereby authorized to charge payment of any additional filing fees

required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17,

which are associated with this communication, or credit any overpayment to Deposit Account

No. 50-2061.

Respectfully submitted,

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